

Steven Mitnick, Esq.
Marc D. Miceli, Esq.
SM LAW PC
P.O. Box 530
Oldwick, New Jersey 08858
(908) 572-7275
Counsel to William J. Focazio
Chapter 11 Debtor



Order Filed on November 12, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

WILLIAM J. FOCAZIO

Debtors.

Case No.: 19-10880

Chapter: 11

Honorable Vincent F. Papalia, U.S.B.J.

**ORDER (I) APPROVING THE FIRST AMENDED DISCLOSURE STATEMENT
ON AN INTERIM BASIS; (II) SCHEDULING A COMBINED HEARING ON
FINAL APPROVAL OF THE FIRST AMENDED DISCLOSURE STATEMENT
AND PLAN CONFIRMATION AND DEADLINES RELATED THERETO; (III)
APPROVING THE SOLICITATION; AND (IV) GRANTING RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby **ORDERED**.

DATED: November 12, 2020



Honorable Vincent F. Papalia
United States Bankruptcy Judge

Upon the *Motion of the Debtor for Entry of an Order (I) Approving the First Amended Disclosure Statement on an Interim Basis; (II) Scheduling a Combined Hearing on Final Approval of the First Amended Disclosure Statement and Plan Confirmation and Deadlines Related Thereto; (III) Approving the Solicitation Procedure and the Forms Related Thereto; and (IV) Granting Related Relief* (the “Motion”);¹ and based on the record in this chapter 11 case; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, dated September 18, 2012 (Simandle, C.J.); and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY FOUND THAT:

A. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. The Motion is in the best interests of the Debtor’s estates, his creditors and other parties in interest.

C. The Debtor has authority to propose and prosecute the Amended Plan and the Disclosure Statement.

D. The Debtor has provided adequate notice of the Motion, and the time fixed for filing objections thereto, and no other or further notice need be provided with respect to the Motion.

E. The period, set forth below, during which the Debtor may solicit the Plan is a reasonable and adequate period of time under the circumstances for creditors entitled to vote to

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

make an informed decision to accept or reject the Plan, including to make an informed decision to object to the Plan.

F. The procedures for solicitation and tabulation of votes to accept or reject the Plan (as more fully set out in the Motion and in this Order below) provide for a fair and equitable process and are consistent with the section 1126 of the Bankruptcy Code. The form of the Ballot attached as **Exhibit A** is sufficiently consistent with Official Form No. 314, adequately addresses the particular needs of these chapter 11 cases and are appropriate for the Voting Class to vote to accept or reject the Plan.

NOW THEREFOR, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is **GRANTED** to the extent set forth herein.
2. The Disclosure Statement is approved on an interim basis under section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017, subject to the modifications as set forth on the record on November 10, 2020 reflecting, inter alia, SB One Bank's objection to the Disclosure Statement. Any objections to the adequacy of the information contained in the Disclosure Statement are expressly reserved for consideration at the Confirmation Hearing.
4. The combined hearing on final approval of the adequacy of the Disclosure Statement and confirmation of the Plan is scheduled for **November 24, 2020 at 2:00 p.m. (ET)** (the "Confirmation Hearing"). The deadline to file objections to the adequacy of the Disclosure Statement and confirmation of the Plan is **November 20, 2020 at 4:00 p.m. (ET)** (the "Objection Deadline"). The Confirmation Hearing may be continued from time to time by the Court or the Debtor without further notice other than adjournments announced in open or by a notice of adjournment filed with the Bankruptcy Court and served on parties entitled to notice under Bankruptcy Rule 2002 and the Local Rules.

5. The deadline for the Debtor to file the Certification of Balloting is **November 23, 2020 at 4:00 p.m. (ET)**.

6. The Deadline for the Debtor (and other parties in support of the Plan) to file a brief in support of confirmation of the Plan and/or a reply to any objections to the final approval of the Disclosure Statement and Confirmation of the Plan is **November 23, 2020**.

7. Objections to the adequacy of the Disclosure Statement and confirmation of the Plan, if any, must:

- (a) be in writing;
- (b) conform to the Bankruptcy Rules and Local Rules;
- (c) state the name and address of the objecting party and the amount and nature of the Claim or Interest of such entity, to the extent applicable;
- (d) state with particularity the basis and nature of any objection to the Disclosure Statement, the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and
- (e) be filed, together with a proof of service, with the Court and served on the following parties: (i) counsel to the Debtor, SM Law PC (Attn: Steven Mitnick, Esq. and Marc D. Miceli, Esq.) P.O. Box 530, Oldwick, New Jersey 08858; (ii) the Office of the United States Trustee, One Newark Center, 1085 Raymond Boulevard, Suite 2100, Newark, NJ 07102 (Attn: Mitchell B. Hausman, Esq.); (iii) all parties-in-interest; and (iv) anyone who filed a notice of appearance.

8. As part of the Solicitation Package, the Debtor shall distribute to creditors entitled to vote on the Plan the ballot based on Official Form No. 314, modified to address the particular circumstances of these chapter 11 cases and to include certain additional information that the Debtor believes to be relevant and appropriate for the Voting Class to vote to accept or reject the Plan. The form of Ballot attached as **Exhibit A** is hereby approved.

9. The deadline to submit Ballots to accept or reject the Plan, as applicable, shall be **November 20, 2020 at 4:00 p.m. (ET)** (the "Voting Deadline").

10. Ballots shall be transmitted by mail or email to Debtor's counsel. All other holders of Claims and Interests will not be provided with a Ballot because such holders either are unimpaired and presumed to accept the Plan under section 1126(f) of the Bankruptcy Code or impaired and deemed to reject the Plan under section 1126(g) Bankruptcy Code.

11. The Debtor is authorized to make non-material changes to the Disclosure Statement, Plan, Solicitation Procedures, Notices, Ballot, and related pleadings without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the foregoing documents before their distribution.

12. The Debtor is hereby authorized to take any action necessary or appropriate to implement the terms of, and the relief granted in, this Order without seeking further order of the Court. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order.

13. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Exhibit “A”

Steven Mitnick, Esq.
Marc D. Miceli, Esq.
SM LAW PC
P.O. Box 530
Oldwick, New Jersey 08858
(908) 572-7275
Counsel to William J. Focazio
Chapter 11 Debtor

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

WILLIAM J. FOCAZIO,

Debtor.

Chapter 11

Case No. 19-10880 (VFP)

Honorable Vincent F. Papalia, U.S.B.J.

**BALLOT FOR ACCEPTING OR REJECTING
DEBTOR'S PLAN OF REORGANIZATION**

William Focazio, the chapter 11 debtor (the "Debtor") filed a Plan of Reorganization (the "Plan") in this case. The Plan provides information to assist you in deciding how to vote your Ballot. If you do not have a copy of the Plan, you may obtain a copy from Marc D. Miceli, Esq., SM Law PC, P.O. Box 530, Oldwick, New Jersey (908) 572-7275 (telephone); (908) 572-7271 (facsimile), or by email: mmiceli@sm-lawpc.com.

You should review the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. If you hold claims or equity interests in more than one (1) class, you will receive a ballot for each class.

If your Ballot is not received by Marc D. Miceli, Esq., SM Law PC, P.O. Box 530, Oldwick, New Jersey 08858 **on or before November 20, 2020**, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan and the Plan Modification.

If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.

To have your vote count, you must complete and return this ballot. Any blank ballots returned will be deemed acceptances.

The undersigned, a creditor of the above-named Debtor, the holder of a Class __ claim against the Debtor in the unpaid principal amount of \$_____, hereby

[check one box]

() ACCEPTS

() REJECTS

the Plan of Reorganization of the Debtor.

DATED: _____

SIGNATURE: _____

PRINT OR TYPE YOUR NAME: _____

CREDITOR: _____

TITLE (IF CORPORATION OR PARTNERSHIP): _____

ADDRESS: _____

TO BE RECEIVED ON OR BEFORE NOVEMBER 20, 2020

RETURN THIS BALLOT TO:

MARC D. MICELI, ESQ.

SM LAW PC

P.O. BOX 530

OLDWICK, NJ 08858

mmiceli@sm-lawpc.com